

Senate Bill 364

By: Senators Staton of the 18th, Unterman of the 45th, Murphy of the 27th, Brown of the 26th, Douglas of the 17th and others

AS PASSED

**A BILL TO BE ENTITLED
AN ACT**

To amend Chapter 24A of Title 43 of the Official Code of Georgia Annotated, relating to massage therapy practice, so as to provide better control and regulation of the practice of massage therapy; to provide for a definition; to change provisions relating to the powers of the Georgia Board of Massage Therapy; to change and expand acts constituting violations of the chapter; to change provisions relating to disciplinary actions; to clarify provisions relating to local regulation of massage therapy; to increase punishment for violations of the chapter; to provide for related matters; to provide an effective date and applicability; to repeal conflicting laws; and for other purposes.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF GEORGIA:

SECTION 1.

Chapter 24A of Title 43 of the Official Code of Georgia Annotated, relating to massage therapy practice, is amended in Code section 43-24A-3, relating to definitions, by adding a new paragraph to read as follows:

"(4.1) 'Entity' means the owner or operator of a business where massage therapy for compensation is performed."

SECTION 2.

Said chapter is further amended by revising paragraph (3) of subsection (a) of Code Section 43-24A-7, relating to powers of the Georgia Board of Massage Therapy, as follows:

"(3) Conduct investigations for the purpose of discovering violations of this chapter or grounds for disciplining persons ~~licensed under~~ or entities acting in violation of this chapter;"

SECTION 3.

Said chapter is further amended by revising Code Section 43-24A-15, relating to unlawful acts, as follows:

"43-24A-15.

(a) It ~~is~~ shall be a violation of this chapter for any person or entity to advertise massage therapy services or to advertise the offering of massage therapy services unless such services are provided by a person who holds a valid license under this chapter.

(b) It shall be a violation of this chapter for any person to advertise:

(1) As a massage therapist unless the person holds a valid license under this chapter in the classification so advertised; or

(2) Massage therapy services combined with escort or dating services or adult entertainment.

(c) It shall be ~~unlawful~~ a violation of this chapter for a person or ~~business~~ entity, ~~or its~~ the employees, agents, or representatives of such person or entity, to practice massage therapy or to use in connection with ~~its~~ such person's or entity's name or business activity the terms 'massage,' 'massage therapy,' 'massage therapist,' 'massage practitioner,' or the letters 'M.T.,' 'L.M.T.,' or any other words, letters, abbreviations, or insignia indicating or implying directly or indirectly that massage therapy is provided or supplied unless such massage therapy is provided by a massage therapist licensed and practicing in accordance with this chapter.

(d) It shall be a violation of this chapter for any entity to:

(1) Advertise the offering of massage therapy services combined with escort or dating services or adult entertainment; or

(2) Employ unlicensed massage therapists to perform massage therapy.

(e) It shall be a violation of this chapter for any person to practice massage therapy without holding a current or provisional license as a massage therapist in accordance with subsection (a) of Code Section 43-24A-8.

(f) It shall be a violation of this chapter for any person or entity, or the employees, agents, or representatives of such person or entity, to render or offer massage therapy services for compensation unless such massage therapy is provided by a licensed massage therapist."

SECTION 4.

Said chapter is further amended by revising Code Section 43-24A-17, relating to disciplinary actions, as follows:

"43-24A-17.

(a) The board ~~shall~~ may take ~~disciplinary action in accordance with the provisions of Chapter 1 of this title.~~ any one or more of the following actions against a person or entity found by the board to have committed a violation of this chapter:

(1) Reprimand or place the licensee on probation;

(2) Revoke or suspend the license or deny the issuance or renewal of a license;

(3) Impose an administrative fine not to exceed \$500.00 for each violation; and

(4) Assess costs against the violator for expenses relating to the investigation and administrative action.

(b) The board may assess collection costs and interest for the collection of fines imposed under this chapter against any person or entity that fails to pay a fine as directed by the board."

SECTION 5.

Said chapter is further amended by revising Code Section 43-24A-22, relating to local regulation, as follows:

"43-24A-22.

(a) This chapter shall not be construed to prohibit a county or municipality from enacting any regulation of persons not licensed pursuant to this chapter. Any place of business where massage therapy for compensation is performed shall also be subject to regulation by local governing authorities.

(b) No provision of any ordinance enacted by a municipality, county, or other jurisdiction that is in effect before July 1, 2005, and that relates to the practice of massage therapy or requires licensure of a massage therapist may be enforced against a person who is issued a license by the board under this chapter."

SECTION 6.

Said chapter is further amended by revising Code Section 43-24A-24, relating to fines and punishments for violations, as follows:

"43-24A-24.

(a) Any person who practices massage therapy without a valid license acts in violation of this chapter Code Section 43-24A-15, upon conviction thereof, shall be punished as provided in this Code section.

(b) Each act of unlawful practice under this Code section shall constitute a distinct and separate offense.

(c) Upon being convicted a first time under this Code section, such person or entity shall be guilty of and shall be punished by a fine of not more than \$500.00 as for a misdemeanor for each offense. Upon being convicted a second time under this Code section, such person or entity shall be guilty of and shall be punished as for a misdemeanor of a high and aggravated nature. Upon being convicted a second third or subsequent time under this Code section, such person or entity shall be guilty of a felony and shall be punished by a fine of not more than \$1,000.00 \$25,000.00 for each offense, imprisonment for not more than 12 months less than one nor more than five years, or both."

96 **SECTION 7.**

97 This Act shall become effective on July 1, 2010, and shall apply to all offenses which occur
98 on and after that date.

99 **SECTION 8.**

100 All laws and parts of laws in conflict with this Act are repealed.